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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/473,649	12/28/1999	AMY MULDERRY	07019.0004	1261

7590 12/11/2001

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EXAMINER

O CONNOR, GERALD J

ART UNIT	PAPER NUMBER
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2167

DATE MAILED: 12/11/2001

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/473,649

Applicant(s)
Mulderry et al.

Examiner
O'Connor

Art Unit
2167



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE one MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above, claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to a method of electronic shopping (e.g. remote ordering), classified in class 705, subclass 26.
 - II. Claims 10-13, drawn to a method of use of a point of sale terminal or electronic cash register, classified in class 705, subclass 16.
 - III. Claims 14-18, drawn to a system for electronic shopping or ordering comprising the presentation of an image or description of a sales item, classified in class 705, subclass 27.
 - IV. Claims 19-22, drawn to a point of sale terminal or electronic cash register comprising a price look-up table, classified in class 705, subclass 20.
 - V. Claims 23-27, drawn to a system comprising the interconnection or interaction of plural electronic cash registers, classified in class 705, subclass 21.
 - VI. Claims 28-31, drawn to a point of sale terminal or electronic cash register having interface for record bearing medium or carrier for electronic funds transfer or payment credit, classified in class 705, subclass 17.

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2. The inventions are distinct, each from the other because of the following reasons:

Inventions I-II are each related to each of Inventions III-VI, as process and apparatus for its practice. The inventions are distinct if it can be shown that *either*: (1) the process as claimed can be practiced by another, materially different apparatus, or by hand, *or* (2) the apparatus as claimed can be used to practice another, materially different process. (MPEP § 806.05(e)). In this case, each of the processes as claimed can be practiced by materially different apparatuses, such as the apparatus of Invention III and the apparatus of Invention IV.

Inventions I and II, III and IV, and V and VI, are each related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In this case: Inventions I, III, and V each have separate utility from Inventions II, IV, and VI, such as for electronic ordering of items other than the delivery of periodicals; and, Inventions II, IV, and VI each have separate utility from Inventions I, III, and V, such as for providing for the delivery of periodicals in fulfillment of electronic orders received therefor. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. A telephone call was placed to Mr. Leonard Smith, Jr. (Reg. N^o 45,118), attorney for applicants, on November 26, 2001, to discuss an oral election to the above restriction requirement, but the call did not result in an election being made.

5. Applicant is advised that the reply to this requirement, to be complete, *must* include an election of the invention to be examined, even if the requirement be traversed (37 CFR 1.143).


Conclusion

6. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, Jerry O'Connor, whose telephone number is (703) 305-1525.

GJOC



November 26, 2001

 12/10/01
ROBERT P. OLSZEWSKI
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